

RESOLUTION NO. 6228

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY, MAY 19, 2009, FOR THE SUBMITTAL TO THE VOTERS OF A BALLOT MEASURE TO EXEMPT A TOTAL OF 500 RESIDENTIAL ALLOTMENTS IN A 20 BLOCK AREA OF DOWNTOWN FROM THE CITY'S RESIDENTIAL DEVELOPMENT CONTROL SYSTEM WITHOUT INCREASING THE POPULATION CAP OF 48,000 IN 2020 AND TO AUTHORIZE THE CITY COUNCIL TO ADOPT POLICIES AND PROCEDURES TO IMPLEMENT THE EXEMPTIONS; AND REQUESTING THE ASSISTANCE OF THE COUNTY OF SANTA CLARA FOR CONSOLIDATION OF THE ELECTION AND TO RENDER SPECIFIED SERVICES TO THE CITY OF MORGAN HILL RELATING TO THE CONDUCT OF THE ELECTION

WHEREAS, the State of California has enacted legislation calling a statewide special election to be held on May 19, 2009 and authorizing any special municipal election to be consolidated with the statewide special election.

WHEREAS, the City Council desires to submit to the voters a ballot measure to exempt a total of 500 residential allotments in a twenty block area of the downtown from the City's Residential Development Control System without increasing the population cap of 48,000 in 2020 and to authorize the City Council to adopt policies and procedures to implement the exemptions.

WHEREAS, the proposed ballot measure is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines §15061(b)(3) under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed ballot measure does not change or increase the population cap in the City's general plan or Residential Development Control System ("RDSCS") or change the allowable use or density of development permitted under the general plan. The general plan and the existing downtown zoning already allows for development of even more than 500 units within the twenty block area and takes into account the development allotment that would be exempted from the RDSCS system of approval. Accordingly, it can be seen with certainty that there is no possibility that the proposed ballot measure may have a significant effect on the environment. The proposed ballot measure would not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. (Public Resources Code §21065; CEQA Guidelines §15378).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The following ballot measure shall be submitted to the voters at the Special Municipal Election to be held on Tuesday, May 19, 2009:

To increase opportunities for economic growth in the city while preserving the citywide population cap of 48,000 residents by 2020, shall an ordinance be adopted to exempt a total of 500 residential units in a 20 block area of downtown from the City of Morgan Hill's Residential Development Control System and to authorize the City Council to adopt policies and procedures implementing the exemptions?	YES
	NO

SECTION 2. The text of the ballot measure is attached to this resolution as Exhibit A. The text of the measure shall not be printed in the ballot materials, but copies of the measure shall be available from the City Clerk.

SECTION 3. The ballots to be used at the election shall be in form and content as required by law.

SECTION 4. The City Clerk is authorized, instructed and directed to contract for the procurement and furnishing of any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 5. The polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in §14401 of the Elections Code of the State of California.

SECTION 6. Pursuant to the requirements of §10403 of the Elections Code of the State of California, the Board of Supervisors of the County of Santa Clara is hereby requested to consent and agree to the consolidation of a Special Municipal Election to be held on Tuesday, May 19, 2009, for the purpose of submitting a ballot measure to the voters of the City of Morgan Hill.

SECTION 7. The City of Morgan Hill requests the services of the Board of Supervisors of the County of Santa Clara and the Registrar of Voters to conduct said Special Election and to consolidate such election. The Registrar of Voters is requested to provide all necessary election services and to canvass the returns of the Special Municipal Election.

SECTION 8. The City of Morgan Hill shall reimburse the County of Santa Clara for services performed when the work is completed and upon presentation to the City of Morgan Hill of a properly approved bill.

SECTION 9. The City Clerk is directed to forward without delay to the Board of Supervisors of the County of Santa Clara and to the County of Santa Clara Election Department, each, a certified copy of this resolution.

SECTION 10. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 11. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 12. The City Council finds and determines that the proposed ballot measure is exempt from CEQA pursuant to CEQA guidelines section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the ballot measure, if adopted, may have a significant effect on the environment.

SECTION 13. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Special Meeting held on the 20th day of February 2009 by the following vote:

AYES:	COUNCIL MEMBERS:	Larry Carr, Marilyn Librers, Greg Sellers, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	Marby Lee

ATTEST:

APPROVED:

IRMA TORREZ, CITY CLERK

STEVE TATE, MAYOR

∞ CERTIFICATION ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 6228, adopted by the City Council at a Special Meeting held on February 20, 2009.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit A

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL EXEMPTING 500 RESIDENTIAL ALLOTMENTS IN A 20 BLOCK AREA OF DOWNTOWN FROM THE CITY'S RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AND AUTHORIZING THE CITY COUNCIL TO ADOPT POLICIES AND PROCEDURES TO IMPLEMENT THE EXEMPTIONS

The people of the City of Morgan Hill do ordain as follows:

Initiative Measure Section 1: Findings and Purposes

In approving this initiative measure, the voters of the City of Morgan Hill make the following findings:

A. Since 1977 the City of Morgan Hill (“City”) has had in place a Residential Development Control System (“RDCS”), which sets a target future population for the City and provides a method for evaluating proposed residential developments and issuing a limited number of development allotments each year. The RDCS has helped to assure that residential development pays for itself and that the rate of development does not outstrip the availability of public services and infrastructure to serve the City’s residents. The system was first enacted by the voters through Measure E in 1977, and subsequently refined and extended through Measure P in 1990, Measure C in 2004 and Measure F in 2006.

B. Under Measure C, the RDCS has fostered balanced growth in the City. The City has achieved a manageable level of development, and has encouraged more efficient patterns of development by directing growth to areas that are contiguous to existing development and served by adequate infrastructure. The RDCS has helped the City to preserve a diversity of housing opportunities, including a good stock of high-quality affordable housing, for its residents. It has helped to maintain the vitality of the City while preserving its open space resources.

C. Measure C established a population ceiling of 48,000 for the City in the year 2020. In 2001, the City updated its General Plan and incorporated an updated population projection of 48,000 for the year 2020. The City’s current population is approximately 39,218 persons.

D. The City approved a Downtown Plan in 2003 and expects to adopt a Downtown Specific Plan in 2009. A major strategy of the Downtown Plan, and the proposed Downtown Specific Plan, is to encourage an increase in the number of residential units in the downtown area, in order to strengthen the base of support for existing businesses, to provide market support for new businesses, and to establish a viable neighborhood in this central area of the City.

E. In 2006, the voters approved Measure F, amending Measure C to establish a process for allocating up to 100 additional residential unit allotments for projects of up to 25 units within the downtown core, defined as from south of Main, north of Dunne, east of Del Monte, and west of the railroad tracks (“Downtown Core”). Measure F allowed additional flexibility for projects of up to 25 units in the Downtown Core to obtain residential unit allotments outside of the established allotment process, thereby facilitating development in the downtown area consistent with the Downtown Plan. Given the downturn in the economy, measures in addition to Measure

F are needed to increase opportunities for development of mixed-use projects, housing and business for the purposes of economic growth and creating the vibrant downtown encouraged in the Downtown Plan and Measure C.

F. By this initiative measure, the voters of the City are amending the RDCS to exempt, through fiscal year 2019/20, 500 total allotments from the RDCS in a 20 block area of the downtown extending from south of Main, north of Dunne, east of Del Monte Avenue, west of Butterfield, and from south of Dunne, north of Ciolino, east of Del Monte, west of Monterey and from north of Keystone, east 170 feet from Monterey, south of W. Central and west of Monterey, excluding Britton Auditorium (“20 Block Area”). To obtain any of the 500 allotments in the 20 Block Area, developments must enter into a Development Agreement and must comply with the Downtown Plan and all applicable rules and regulations in effect at the time of entry into a Development Agreement, including, but not limited to applicable zoning and planning documents.

G. This initiative will not increase the population ceiling established by Measure C and in the General Plan and will maintain the City’s authority under Housing Element policy 1c-1 to annually evaluate the outcome of the allocation process to determine if further adjustment to the system are advisable to ensure that the annual allocations are maximized for both market-rate and affordable housing.

H. This initiative measure will increase the feasibility and shorten the time needed to achieve the vision for a redeveloped, vibrant downtown with a healthy mix of commercial, office and residential uses. The 500 unit exemption in the 20 Block Area would assist the downtown area in establishing a new identity and capturing retail/restaurant demand, and would support the Redevelopment Agency’s efforts to invest in and support significant improvements for downtown.

I. The voters find that allowing the 500 unit exemption in the 20 Block Area under this initiative measure would permit construction that is already allowed under existing zoning and would offer additional flexibility with respect to the timing of construction. The voters find that providing flexibility to allow for the potential earlier implementation of the Downtown Plan is desirable and beneficial to the general community welfare as it would support achievement of public objectives for a vibrant downtown. The flexibility provided under the measure will increase opportunity for mixed-use projects and economic activity in the downtown for the purpose of economic growth of the city while preserving the citywide population cap of 48,000 residents by 2020.

J. The voters find the City Council is in the best position to adopt policies and procedures and to amend Article II of the RDCS to implement the 500 unit exemption in the 20 Block Area made available through this initiative measure.

Initiative Measure Section 2: General Plan

The City of Morgan Hill General Plan Community Development element contains the core provisions governing “Residential Development Control”, as adopted by the voters of the City when they passed Measure C in March 2004 and as refined and extended by the voters of the City when they passed Measure F in 2006. The “Residential Development Control” provisions appear at pages 27-31 of the July 2001 Morgan Hill General Plan. The people now wish to amend the provisions of the General Plan and accordingly adopt the General Plan amendments set forth below. Changes to the text are shown by stricken-out text for deletions and underscored

text for additions. The provisions of the General Plan as amended by this initiative shall remain in effect through fiscal year 2019/20.

“Residential Development Control

The following provisions, enacted by voter initiative Measure P in 1990 and refined and extended by votes of the people of the City in 2004, ~~and 2006,~~ and 2009 shall apply to all residential development in the City, and to any residential development that requires provision of urban services by the City, to and including fiscal year 2019/20.

Requirement of Development Allotments for All Residential Development

For the years to and including fiscal year 2019/20, no residential development shall be undertaken, and no discretionary permit or building permit shall be issued, in the City of Morgan Hill unless a development allotment has been obtained therefore in accordance with the provisions of this section of the General Plan and the Residential Development Control System (RDCS) set out in the Morgan Hill Municipal Code, except for secondary dwelling units (“granny units”) and for a single dwelling unit, on the following conditions: If one unit is proposed on a parcel of sufficient size to accommodate additional units, it may be permitted without an allotment only if a deed restriction is placed upon the parcel which requires allotments to be obtained for any additional dwelling units on that parcel. Furthermore, if more than one contiguous parcel is proposed for development by the same individual or entity under the single dwelling unit exemption on each parcel, Residential Planned Development Zoning shall be required for such development. The Residential Development Control provisions of this section shall apply to all types of residential development in the City of Morgan Hill, including single family (which includes mobile homes) and multi-family housing.

Downtown Exemptions

Through fiscal year 2019/20, 500 total allotments in a 20 block area of the downtown extending from south of Main, north of Dunne, east of Del Monte Avenue, west of Butterfield, and from south of Dunne, north of Ciolino, east of Del Monte, west of Monterey and from north of Keystone, east 170 feet from Monterey, south of W. Central and west of Monterey, excluding Britton Auditorium (“20 Block Area”) shall be exempt from the provisions in this “Residential Development Control” section of the General Plan and the RDCS. To obtain any of the 500 allotments in the 20 Block Area, developments must enter into a Development Agreement and must comply with the Downtown Plan and all applicable rules and regulations in effect at the time of entry into a Development Agreement, including, but not limited to applicable zoning and planning documents. For any project which already has allotments and is subject to a binding Development Agreement, any additional allotments authorized pursuant to this “Residential Development Control” section of the General Plan and the RDCS shall be supplemental to and shall not be substituted for the previously awarded allotments. Further, the new Development Agreement required by this “Residential Development Control” section of the General Plan and the RDCS shall restate and reaffirm the development commitments made pursuant to any existing Development Agreement subject to any amendment as may be made pursuant to state law. The City Council shall adopt policies and procedures and amend Article II of the RDCS to implement the 500 unit exemption in the 20 Block Area described herein.

Number of Development Allotments.

The population ceiling for the City as of January 1, 2020 is 48,000. This ceiling shall not be increased, regardless of whether additional lands are added to the City or its Urban Service Area. However, if any of the following existing County subdivisions, which are already within the City’s Urban Growth Boundary (“Existing County Subdivisions”), are annexed into the City, the population within them shall not count against the 48,000 person population limit: Holiday Lake

Estates Unit 1, Casalegno's Subdivision (Casa Lane), and El Dorado III (at the southwest corner of Hill Rd. and Diana Ave).

Except for the 500 allotments exempt from the provisions in this "Residential Development Control" section of the General Plan and the RDCS and the 100 allotments made available by the voters in November ~~2066~~ 2006 for projects of up to 25 units in the downtown core area defined as from south of Main, north of Dunne, east of Del Monte, and west of the railroad tracks ("Downtown Core"), which are in addition to the usual numbers as determined by this paragraph, the number of allotments shall be determined biennially, using the California Department of Finance's most recently determined figures for the persons per household and total population of the City of Morgan Hill. The State's estimate will be adjusted for any relevant housing backlog not included in its population estimate, any Existing County Subdivision (as defined under the prior paragraph) that has been annexed, and any other quantifiable factor which improves the accuracy of the estimate. The adjusted population is then subtracted from 48,000, the result divided by the Department of Finance's most recently determined figure for persons per household in Morgan Hill, and then divided by the number of years remaining between the population estimate date and 2020. This gross annual allotment is then reduced for any fiscal year by its previously awarded allotments (awarded in prior years) and the number of exempt units anticipated for that fiscal year.

Except for the 500 allotments exempt from the provisions in this "Residential Development Control" section of the General Plan and the RDCS and the 100 allotments made available by the voters in November 2006, the number of development allotments shall be divided between conventional single family dwellings, mobile homes and multiple family dwellings in a manner determined by the City Council, provided that no less than 33 percent of all allotments shall be awarded to single family dwelling units. The number of affordable/elderly dwelling units shall be assigned in a manner consistent with state law for the total number of allotments to be assigned for that year. The City Council may, if it chooses, further divide the allotments according to geography, price, development size, phasing (including the number of units and timing of allotments required to complete a project), and similar criteria as deemed necessary to provide for the general welfare.

For the competitions for allotments in fiscal years 2006-07 through 2009-10, the City Council shall reserve a certain number of allotments for projects in the Downtown Area. The number of allotments allocated, and the geographic limits of the Downtown Area for this purpose, shall be determined by the Council. The Council may amend the number of the reserved allotments and geographic limits of Downtown for this purpose, and may continue to reserve an appropriate number of allotments to Downtown area projects after the 2009-10 fiscal year. Downtown housing and mixed use projects within the Downtown RDCS Boundary that were awarded allotments in March 2006 may be started and completed earlier than their allotment years. The City Council may establish procedures for scoring and awarding the 100 allotments made available by the voters in November 2006, which may not require a competition but which shall provide that all projects must achieve a minimum score for the project type, and which may allow for flexible project start and completion dates.

The City Council may, in any year, reserve an appropriate number of allotments per year to vertical mixed-use projects, which are not restricted to the Downtown Area.

Development Allotment Applications and Evaluations

Development allotments shall be allocated to proposed developments in accordance with a Residential Development Control System set out in the Morgan Hill Municipal Code. This

system shall provide for awards of development allotments based on the number of points scored for all development proposals in an annual or biennial competition, or outside of a competition but based on requiring projects to achieve a minimum point score, for the special 100 downtown allotments established by the voters in November 2006. The point scale used shall take into account the impact of the proposed development on the following public facilities and services: water supply system, sanitary sewer and treatment plant, drainage and runoff, fire and police protection, traffic and other municipal services.

Proposed developments shall be awarded points for provision of schools and related facilities, open space, orderly and contiguous development, public facilities, parks and trails, low-income and moderate-income housing and housing for the elderly, and diversity of housing types; and for quality of architectural design and site design.

Small residential developments provide special benefits to the City by encouraging local developers, providing design variety, and promoting utilization of smaller lots. These developments do not impose as high a burden on municipal services as do larger projects, because their demands are incremental and they tend to be in fill developments. Such small developments may be unable to compete with larger developments in terms of the levels of amenities provided. In order to treat small developments in a manner reflecting their benefits to the community, the Residential Development Control System shall be designed to provide for small development through appropriate means selected by the City Council, such as a separate small project competition and a more streamlined and less costly process.

In implementing the provisions of the Residential Development Control System and making awards of development allotments, the City Council shall comply with Government Code Sections 66000 et seq. and other relevant provisions of the state Planning and Zoning Law.

Emergency situations

No residential development shall be permitted during a period of emergency or severe impaction of public facilities, as declared by the City Council pursuant to provisions of the Municipal Code. The declaration of an emergency or severe impaction situation may be based on determinations of mandatory water rationing, sewage system operating at 95% capacity, or other endangerment to the public health, safety or welfare. In the event of overcrowding in any public school serving Morgan Hill, the City Council shall work with the school district pursuant to Government Code sections 65970 et seq. to seek appropriate mitigation and prevent further overcrowding, including, as authorized by state statute, prohibiting residential development within the overcrowded school attendance area. The Council shall, in implementing this provision, comply with the provisions of Government Code Sections 65858, 65996, and any other applicable provisions of law.

Open Space Conversions

No development allotments shall be awarded for a development proposal pursuant to this chapter and the RDCS unless the public benefits included in the proposal are secured in a permanent and enforceable manner. Lands that are designated for private or public open space, greenbelts, parks, paths, trails, or similar scenic and recreational uses in a residential development allotment application under this section shall, once the application is approved, be limited to the uses specified in the application, through the use of permanent dedications, easements or similar devices.

With respect to development allotments already awarded, wherever legally possible, no further building permits shall be granted for a project until such public benefits specified in the

development application, particularly but not exclusively open space dedications, have been secured in a permanent and enforceable manner.

The lands within the City of Morgan Hill that are designated "Open Space" on the Morgan Hill General Plan Land Use/Circulation Elements map, as amended through November 19, 2003, are hereby reaffirmed and readopted through FY 2019/20. This provision shall not prevent the City Council from designating additional lands as open space.

Urban Service Area Restrictions

The City of Morgan Hill shall neither apply to LAFCO for, nor otherwise request or support, the addition of any land to its Urban Service Area, until such time as the City Council finds that the amount of undeveloped, residentially developable land in the existing Urban Service Area is insufficient to accommodate five years worth of residential growth beyond that required to accommodate the number of development allotments available in the next competition. The projected rate of growth for purposes of this determination shall be the rate of growth provided for by this section of the General Plan and the RDCS. After making such a finding of space insufficiency, the City may support the addition of land to the Urban Service Area only to the extent necessary to support approximately five or fewer years of growth beyond that required to accommodate the number of development allotments available in the next competition.

The City Council may formulate standards by which it may make exceptions to the above-stated provision, for desirable in-fill. Desirable in-fill is defined as a tract of land not exceeding twenty acres and abutted on at least two sides by the City or abutted on one side by the City and having two other sides within a quarter mile of a City boundary, (as determined by a perpendicular line drawn from the side of the parcel to the City boundary), and whose inclusion into the Urban Service Area would not unduly burden City services and would beneficially affect the general welfare of the citizens of the City. The standards set up for granting such exceptions must include criteria to prevent repetitively granting exceptions to the same applicant, development or parcel. The City Council, prior to approving any expansion of the Urban Service Area for desirable in-fill, shall make findings documenting that the expansion would not unduly burden City services, and that the expansion would beneficially affect the general welfare of the City, as defined in the following paragraph.

Areas whose addition to the Urban Service Area would be considered to beneficially affect the general welfare of the citizens of the City include those areas that promote orderly and contiguous development by facilitating the provision of infrastructure improvements, or allow for the establishment of public facilities such as parks, schools, or other buildings to be owned or operated by the city, school district, water district, or any other public agency. Infrastructure improvements that would promote orderly and contiguous development are those that connect to the existing infrastructure (for example, the continuation of a dead-end street that would improve traffic circulation patterns), or otherwise complete or complement the existing system. The infrastructure improvements that are the basis of the City's findings that the expansion would beneficially affect the general welfare of the City must be installed, or the land needed for public facilities that are the basis of the City's findings that the expansion would beneficially affect the general welfare of the City must be conveyed to the public agency, within five years of the date that the area is added to the Urban Service Area or upon its development, whichever occurs first. The commitment by the applicant to install the needed infrastructure improvements on which the City's findings are based, or convey the land needed for the public facilities, must be secured prior to official action adding the area to the Urban Service Area, through a development agreement or other legally binding agreement recorded against the property. The City shall not require an applicant to provide infrastructure or land in a quantity exceeding that which is needed

to fully offset and mitigate all direct and cumulative impacts on services and infrastructure from new development proposed by the applicant.

The City Council may make exceptions to these requirements for, and support the annexation to the City of, Existing County Subdivisions as defined in paragraph B, “Number of Development Allotments,” of the Residential Development Control provisions of the General Plan.

This section is not intended to, and shall not be applied to, restrict or constrain the discretion of the LAFCO, nor to prevent any action required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 or other state statute or by any Court judgment.

In order to assure that City services and resources are not unduly burdened, urban sprawl and noncontiguous development must be discouraged. Therefore, for any land added to the Urban Service Area between March 1, 1990, and the effective date of Measure P, December 8, 1990, and not considered “infill” as defined above, the City shall not provide urban services to support any development at a higher density than that provided for in the Santa Clara County General Plan as of March 1, 1990.

Urban Services Extensions

The City of Morgan Hill shall grant no new extensions of urban services for residences beyond its Urban Service Area except in the event that: 1) Morgan Hill has entered into a mutual aid or reciprocal emergency agreement for police, fire or other emergency services to be provided by City facilities on County Land; or 2) an owner of an existing development requests an extension due to the failure of an existing septic system or well and the City Council makes a finding that denial of services to that development would have a direct adverse impact on the public health and safety.”

Initiative Measure Section 3: Amendments to Chapter 18.78 of the Morgan Hill Municipal Code

The RDCS as codified at Chapter 18.78 [Residential Development Control System] of Title 18 [Zoning] of the Morgan Hill Municipal Code. Article I [Initiative Provisions] of Chapter 18.78 [Residential Development Control System] of Title 18 [Zoning] of the Morgan Hill Municipal Code contains the core provisions governing the RDCS as adopted by the voters of the City of Morgan Hill when they passed Measure P in 1990 and Measure C in 2004 and Measure F in 2006. The people of Morgan Hill now wish to amend the provisions of Article I [Initiative Provisions] of Chapter 18.78 [Residential Development Control System] of Title 18 [Zoning] of the Morgan Hill Municipal Code by amending Section 18.78.030 [Development allotments – Determination and distribution], and by adding Section 18.78.025 [Downtown Exemptions]. Changes to the text are shown by stricken out text for deletions and underscore text for additions. The provisions of the Municipal Code as amended by this initiative shall remain in effect through fiscal year 2019/20.

“18.78.025 Downtown Exemptions

A. Through fiscal year 2019/20, 500 total allotments in a 20 block area of the downtown extending from south of Main, north of Dunne, east of Del Monte Avenue, west of Butterfield, and from south of Dunne, north of Ciolino, east of Del Monte, west of Monterey and from north of Keystone, east 170 feet from Monterey, south of W. Central and west of Monterey, excluding Britton Auditorium (“20 Block Area”) shall be exempt from the provisions governing

“Residential Development Control” in the General Plan and RDCS set out in Parts 2 and 3 of this Article and shall instead be subject to this Section and any policies and procedures adopted pursuant to this Section.

B. To obtain any of the 500 allotments in the 20 Block Area, developments must enter into a Development Agreement and must comply with the Downtown Plan and all applicable rules and regulations in effect at the time of entry into a Development Agreement, including, but not limited to applicable zoning and planning documents.

C. For any project which already has allotments and is subject to a binding Development Agreement, any additional allotments authorized pursuant to this Section shall be supplemental to and shall not be substituted for the previously awarded allotments. Further, the new Development Agreement required by this Section shall restate and reaffirm the development commitments made pursuant to any existing Development Agreement subject to any amendment as may be made pursuant to state law...

D. The City Council shall, as necessary, adopt policies and procedures and amend Article I of this Chapter to implement this Section.

18.78.030 Development allotments—Determination and distribution.

A. The population ceiling for the city as of January 1, 2020, is forty-eight thousand persons. This ceiling shall not be increased, regardless of whether additional lands are added to the city or its urban service area. If any of the following existing county subdivisions (“Existing County Subdivisions”) are annexed into the city, the population within them shall not count against the forty-eight thousand person limit, as set forth below in Section 18.78.030(B): Holiday Lake Estates Unit One, Casalegno’s Subdivision (Casa Lane), and El Dorado III. The population of these Existing County Subdivisions shall be determined by multiplying the number of homes in each area by the average number of persons per household as determined by the most recent State Department of Finance estimates. Prior to the enactment of Measure P, Holiday Lake Estates Unit One and Casalegno’s Subdivision (Casa Lane) were provided with City water service. The El Dorado III subdivision, at the southwest corner of Hill Road and Diana Ave., was developed in the County, and provided with sewer and water service, in order to eliminate a significant County health problem. These Existing County Subdivisions are all within Morgan Hill’s UGB and were at least ninety-five percent developed as of November 19, 2003.

B. Except for the five hundred allotments exempted as set forth in Section 18.78.025 and the one hundred allotments made available by the voters in November 2006 for projects up to twenty-five units in the downtown core area defined as from south of Main, north of Dunne, east of Del Monte, and west of the railroad tracks (“Downtown Core”), which are in addition to the usual numbers as determined by this section 18.78.030, the number of allotments shall be determined biennially using the California Department of Finance’s most recently determined persons per household figures and population for the city of Morgan Hill. The California Department of Finance’s population estimate will be adjusted for any relevant housing backlog not included in its population estimate, the population of any existing county subdivision enumerated in subsection 18.78.030(A) that has been annexed, and any other quantifiable factor which improves the accuracy of the estimate. The adjusted population is then subtracted from forty-eight thousand, the result divided by the Department of Finance’s most recently determined figure for persons per household in Morgan Hill, and then divided by the number of years remaining between that population estimate date and 2020. This gross annual allotment number is then reduced for any fiscal year by its previously awarded allotments (awarded in prior years)

and the number of exempt units anticipated for that fiscal year. The biennial allotment calculation applies to each fiscal year after the fiscal year in which it is computed. For example, the Spring 2004 computation will be used to set the number of allotments for the competition to be held for fiscal years 2006–07 and 2007–08, as well as to make any positive supplemental adjustments for the previously awarded fiscal years 2004–05 and 2005–06, for projects that competed for 2004–05 and 2005–06 allotments.

C. Except for the five hundred allotments exempted as set forth in Section 18.78.025 and the one hundred allotments made available by the voters in November 2006 for projects of up to twenty-five units in the Downtown Core, the number of development allotments shall be divided between conventional single-family dwellings, mobile homes and multiple-family dwellings in a manner determined by the city council; provided, that no less than thirty-three percent of all allotments shall be awarded to single-family dwelling units. The number of affordable/elderly dwelling units shall be assigned in a manner consistent with state law for the total number of allotments to be assigned for that year. The city council may, if it chooses, further divide the allotments according to geography; price; development size; phasing, including the number of units and timing of allotments required to complete a project; and similar criteria as deemed necessary to provide for the general welfare.

D. For the competitions for allotments in fiscal years 2006–07 through 2009–10, the city council shall reserve a certain number of allotments for projects in the downtown area. The number of allotments allocated, and the geographic limits of the downtown area for this purpose, shall be determined by the city council and may be amended, as necessary, to reflect changes in circumstances and needs. The council may continue to reserve a certain number of allotments for projects in the downtown area after the 2009–10 fiscal year. Downtown housing and mixed use projects within Downtown RDCS Boundary that were awarded allotments in March 2006 may be started and completed earlier than their allotment years. The city council may establish procedures for scoring and awarding the one hundred allotments made available by the voters in November 2006, which may not require a competition but which shall provide that all projects must achieve a minimum score for the project type, and which may allow for flexible project start and completion dates.”

Initiative Measure Section 4: General Provisions

1. Duration of provisions.

The amendments to the Zoning Ordinance and General Plan enacted by this initiative shall remain in effect through fiscal year 2019/20.

2. Compliance with state and federal laws.

The amendments to the Zoning Ordinance and General Plan enacted by this initiative shall not apply to the extent, but only to the extent, that they would violate the Constitution or laws of the United States or the state of California.

3. Severability.

If any provision of this initiative is held unconstitutional or violative of any state or federal law, the invalidation shall not affect the validity of any other provision or application of any other provision. The voters of Morgan Hill declare that the provisions and applications of the provisions of this initiative are severable and would have been enacted as they were even though any other provision or application or applications are held unconstitutional or otherwise violative of law.

4. Unconstitutional taking of private property prohibited.

The amendments to the Zoning Ordinance and General Plan enacted by this initiative shall not operate to deprive any landowner of substantially all the market value of his property or otherwise constitute an unconstitutional taking without compensation. If application of the provisions of this initiative to a specific project would effect a taking, then the City Council may alter the provisions of this initiative, but only to the extent necessary to avoid such a taking. Any such adjustments shall be designed to carry out the goals and provisions of Article I [Initiative Provisions] of Chapter 18.78 [Residential Development Control System] of Title 18 [Zoning] of the Morgan Hill Municipal Code and the “Residential Development Control” section of the General Plan to the maximum extent feasible.

5. Amendment or repeal.

The amendments to the Zoning Ordinance and General Plan enacted by this initiative were enacted into law by the voters and accordingly, may be amended or repealed only by the voters of the City at a municipal election. In the event of ongoing reorganizations, revisions and updates to the General Plan and Municipal Code, the policies and provisions enacted by this initiative measure shall be retained and remain in effect until their expiration or amendment or repeal by the voters.

6. Implementation and Consistency.

A. Upon the effective date of this initiative ordinance, Section 2 of this initiative shall be deemed inserted into the Morgan Hill General Plan (unless all general plan amendments allowed by state and local law have already been approved during the calendar year in which the initiative is enacted, in which case Section 2 of this initiative shall be deemed inserted into the General Plan on January 1 of the following calendar year). The General Plan and the Morgan Hill Municipal Code shall be interpreted so as to give immediate effect to the provisions of this initiative, as of the date Section 2 is deemed inserted into the General Plan.

B. As of the date the provisions of Section 2 of this initiative are deemed inserted into the Morgan Hill General Plan, Section 3 of this initiative shall likewise be deemed inserted into the Morgan Hill Municipal Code, and Measure F, amending Measure C, shall be deemed amended by the terms of this initiative ordinance, as set forth in Section 2 and Section 3 of this initiative measure, and the Municipal Code shall be interpreted to give immediate effect to the initiative provisions.

C. The City Council shall within 120 days of the enactment of this initiative amend the Morgan Hill General Plan as necessary to ensure internal consistency with all provisions of this initiative. Also within 120 days the City Council shall amend Article II [Specific Policies] of Chapter 18.78 [Residential Development Control System] of Title 18 [Zoning] of the Morgan Hill Municipal Code and any other land use regulations as necessary to conform to all provisions of this initiative.

7. Execution.

The Mayor of the City Council is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Morgan Hill voting on the 19th day of May, 2009.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney